

**STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA**

FILED IN OFFICE
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
MAR 24, 2023 04:51 PM


Sheila Butler, Clerk
Paulding County, Georgia

CIVIL ACTION NUMBER 23-SV-000094

Ito, Carolyn

PLAINTIFF

VS.

Walmart, Inc., DBA Sam's Club Store No.
4802

Sam's East Inc., DBA Sam's Club Store No.
4802

DEFENDANTS

SUMMONS

TO: SAM'S EAST INC.

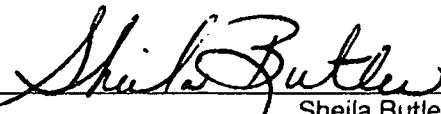
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Matthew Momtahan
The Momtahan Law Firm
402 W. Bankhead Hwy.
P.O. Box 1034
Villa Rica, Georgia 30180

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 24th day of March, 2023.

Clerk of State Court


Sheila Butler, Clerk
Paulding County, Georgia

General Civil and Domestic Relations Case Disposition Information Form☐ Superior or ☒ State Court of Paulding County**For Clerk Use Only**Date Disposed _____
MM-DD-YYYYCase Number 23-SV-000094Case Style Ito v Walmart, Inc., et al**Plaintiff(s)**

Ito, Carolyn

Last	First	Middle I.	Suffix	Prefix

Defendant(s)

Walmart, Inc.

Last	First	Middle I.	Suffix	Prefix

Sam's East Inc.

Last	First	Middle I.	Suffix	Prefix

Reporting Party _____

Plaintiff's Attorney Montahan, Mr. Matthew State Bar Number 858178 Self-Represented ☐Defendant's Attorney _____ State Bar Number _____ Self-Represented ☐**Manner of Disposition****Check Only One**

- ☐ Jury Trial
- ☐ Bench/Non-Jury Trial
- ☐ Non-Trial Disposition, such as:
- ☐ Alternative Dispute Resolution

- ☐ Check if any party was self-represented at any point during the life of the case.
- ☐ Check if the court ordered an interpreter for any party, witness, or other involved individual.
- ☐ Check if the case was referred/ordered to a court-annexed alternative dispute resolution process.

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IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,
Plaintiff,

v.

WALMART INC. & SAM'S EAST INC. d/b/a)
Sam's Club Store No. 4802)
Defendants.)

Civil Action File No. _____

Shelia Butler
Shelia Butler, Clerk
Paulding County, Georgia

COMPLAINT FOR DAMAGES

Plaintiff Carolyn Ito ("Ms. Ito") files this Complaint for Damages against Defendants and shows the court as follows:

1.

Walmart Inc. is a Delaware profit corporation ("Defendant Walmart") capable of suing and being sued. Defendant Walmart may be served with the Complaint, Summons, and service of process via its Registered Agent: The Corporation Company, 106 Colony Park Drive, Ste. 800-B, Cumming, Forsyth County, Georgia 30040.

2.

Sam's East Inc. is an Arkansas profit corporation ("Defendant Sam's") capable of suing and being sued. Defendant Sam's may be served with the Complaint, Summons, and service of process via its Registered Agent: The Corporation Company, 106 Colony Park Drive, Ste. 800-B, Cumming, Forsyth County, Georgia 30040.

3.

This Court has jurisdiction over these claims and over these parties pursuant to Title 9, Chapter 10, Article 4 of the Official Code of Georgia Annotated.

4.

Venue is proper in this Court pursuant to Title 9, Chapter 10, Article 4 of the

Official Code of Georgia Annotated.

5.

Defendant Walmart and Defendant Sam's (hereinafter collectively "Defendants") operate Sam's Club Store Number 4802 located at 4798 Jimmy Lee Smith Parkway, Hiram, Paulding County, Georgia 30141 (hereinafter "Defendants' Store").

6.

On December 5th, 2021, Ms. Ito was a business invitee of Defendants' Store.

7.

It was raining at the time Ms. Ito visited Defendants' Store.

8.

While entering the store Ms. Ito went to retrieve a shopping buggy. After Ms. Ito retrieved the buggy and began entering past the buggy area into the store, Ms. Ito slipped on a puddle of water and fell.

9.

Even though Ms. Ito was exercising ordinary care for her own safety, she did not see the puddle before she fell.

10.

Ms. Ito was injured when she fell.

11.

There were no warning signs in the area of the puddle informing customers of the wet floor. There were no mats or other floor coverings to prevent customers from slipping or falling on the puddle. There were employees of Defendants in the immediate area that could have and should have noted the dangerous condition of the water and taken steps to correct it or at least warn customers of its existence.

12.

Ms. Ito's fall and her resulting injuries were proximately caused by Defendants'

negligent acts and through no fault of her own, in Defendants' failing to properly maintain the area where Ms. Ito fell.

13.

As a result of the Defendants' negligence, Ms. Ito suffered personal injuries, which were painful and have required medical treatment.

14.

As a result of the Defendants' negligence, Ms. Ito has incurred medical expenses in an amount that is yet to be completely determined but is no less than \$41,000.00.

15.

As a result of the Defendants' negligence, Ms. Ito has incurred lost wages in an amount that is yet to be completely determined.

16.

As a result of Defendants' negligence, Plaintiff has endured pain and suffering and mental anguish in the past, present and into the future.

17.

All of Ms. Ito's damages in the form of personal injuries, medical expenses, lost wages, pain and suffering and mental anguish were proximately caused by Defendants' negligent acts.

WHEREFORE, Ms. Ito prays and demands as follows:

- a) That process issue and service be had upon Defendants;
- b) That she recover from Defendants, the sum of her (1) medical expenses, (2) lost wages and (3) past, present and future pain and suffering and mental anguish as determined by the enlightened conscience of the jury; and
- c) That she have any other relief that the court deems just and proper.

Respectfully submitted this 24th day of March, 2023.

402 W. Bankhead Hwy.
P.O. Box 1034
Villa Rica, Georgia 30180
Ph. 470-284-2500
Fx. 470-284-2501
Matthew@MomtahanLaw.com

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178

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IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,
Plaintiff,

v.

WALMART INC. & SAM'S EAST INC. d/b/a)
Sam's Club Store No. 4802)
Defendants.)

Civil Action File No. _____


Sheila Butler, Clerk
Paulding County, Georgia

LEAVE OF ABSENCE

COMES NOW, Matthew Momtahan, and respectfully notifies all judges before whom he has cases pendings, all affected clerks of court, and all opposing counsel that he will be on leave pursuant to Uniform Superior Court Rule 16, Uniform State Court Rule 16, Uniform Magistrate Court Rule 9, Uniform Probate Court Rule 6.9, and Uniform Municipal Court Rule 9, and Uniform Juvenile Court Rule 16.1.

1. The period of leave during which time Mr. Momtahan will be away from the practice of law is:

- March 27th through 31st, 2023;
- April 3rd through 7th and 11th through 12th, 2023;
- May 9th through 10th, 17th through 19th, and 30th, 2023;
- June 22nd through 23rd and 26th through 28th, 2023;
- July 3rd through 7th, 11th through 12th, 19th through 21st, and 24th through 25th, 2023;
- August 8th through 9th and 21st through 25th, 2023;
- September 5th, 12th through 13th, and 26th through 29th, 2023;
- October 3rd through 4th, 6th, 9th through 13th, 20th, 27th, and 31st 2023;
- November 1st through 3rd, 6th through 8th, 14th through 15th, and 20th through 24th, 2023;

- December 1st, 4th through 8th, 11th through 15th, 18th through 22nd, and 25th through 29th, 2023;
 - January 1st through 5th, 2024.
2. The purpose of the leave is: the applicant will be on vacation, observing state and federal holidays, in legal seminars and continuing education, serving on the Villa Rica, Georgia City Council, and other required functions.
 3. All affected judges and opposing counsel shall have ten days from the date of this Notice to object, and if no objections are filed, the leave shall be granted.

Respectfully submitted March 24, 2023

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan

Matthew Momtahan

Georgia Bar No. 858178

P.O. Box 1034

Villa Rica, Georgia 30180

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IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

ANSWER OF DEFENDANTS

COME NOW, Defendants WALMART INC. and SAM'S EAST, INC. d/b/a
SAM'S CLUB STORE NO. 4802 (Sam's East, Inc. being the proper defendant) and
make this Answer to Plaintiff's Complaint as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against Defendants upon which relief
can be granted.

SECOND DEFENSE

Plaintiff's alleged damages, if any, were directly and proximately caused by
Plaintiff's own contributory negligence and failure to exercise ordinary care.

THIRD DEFENSE

Plaintiff was not in the exercise of ordinary care for her own safety in the
premises, and by the exercise of ordinary care could have avoided any injury to

herself; and on account thereof, Plaintiff is not entitled to recover from Defendants.

FOURTH DEFENSE

Defendants deny that they were negligent in any manner whatsoever or that any negligent act or omission on their part caused or contributed to any injury or damage alleged to have been sustained by Plaintiff.

FIFTH DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby barred from recovering against Defendants.

SIXTH DEFENSE

Defendants respond to the enumerated paragraphs of Plaintiff's Complaint as follows:

1.

Defendants admit the allegations contained in paragraph 1 of the Plaintiff's Complaint.

2.

Defendants admit the allegations contained in paragraph 2 of Plaintiff's Complaint.

3.

Defendants deny the allegations contained in paragraph 3 of the Plaintiff's Complaint. Venue is now proper in the United States District Court, Northern

District of Georgia, Rome Division.

4.

Defendants deny the allegations contained in paragraph 4 of the Plaintiff's Complaint. Venue is now proper in the United States District Court, Northern District of Georgia, Rome Division.

5.

Defendants admit only that Sam's East, Inc. operated the subject store. Defendants deny the remaining allegations contained in paragraph 5 of the Plaintiff's Complaint.

6.

Defendants lack sufficient information to either admit or deny the allegations contained in paragraph 6 of the Plaintiff's Complaint.

7.

Defendants lack sufficient information to either admit or deny the allegations contained in paragraph 7 of the Plaintiff's Complaint at this time.

8.

Defendants deny the allegations contained in paragraph 8 of the Plaintiff's Complaint.

9.

Defendants deny the allegations contained in paragraph 9 of the Plaintiff's

Complaint, as stated.

10.

Defendants deny the allegations contained in paragraph 10 of the Plaintiff's Complaint.

11.

Defendants deny the allegations contained in paragraph 11 of the Plaintiff's Complaint.

12.

Defendants deny the allegations contained in paragraph 12 of the Plaintiff's Complaint.

13.

Defendants deny the allegations contained in paragraph 13 of the Plaintiff's Complaint.

14.

Defendants deny the allegations contained in paragraph 14 of the Plaintiff's Complaint.

15.

Defendants deny the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16.

Defendants deny the allegations contained in paragraph 16 of the Plaintiff's Complaint.

17.

Defendants deny the allegations contained in paragraph 17 of the Plaintiff's Complaint.

18.

All other allegations contained in the Complaint which are not specifically responded to herein, are, therefore, denied.

19.

Defendants deny Plaintiff's prayer for relief, including subparagraphs (a), (b), and (c) thereof.

WHEREFORE, Defendants pray that Plaintiff's Complaint be dismissed with all costs cast upon the Plaintiff. DEFENDANTS DEMAND TRIAL BY A JURY OF TWELVE (12) PERSONS AS TO ALL ISSUES SO TRIABLE.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllaw.com

CERTIFICATE OF SERVICE


I hereby certify that a copy of the above and foregoing ANSWER OF DEFENDANTS has this day been filed and served upon opposing counsel via Peachcourt eFileGA.

This the 24th day of April, 2023.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
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IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____/

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

12-PERSON JURY DEMAND

COME NOW Defendants, WALMART INC. & SAM'S EAST, INC. d/b/a
SAM'S CLUB STORE NO. 4802 and demand a trial by a jury of twelve (12) persons.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **JURY DEMAND** has this day been filed and served upon opposing counsel via Peachcourt eFileGA.

This the 24th day of April, 2023.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllaw.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Civil Action File No.

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

NOTICE OF REMOVAL

COME NOW WALMART INC. and SAM'S EAST, INC. d/b/a SAM'S CLUB STORE NO. 4802 (Sam's East, Inc. being the proper Defendant), named Defendants in the above-captioned matter, by and through their counsel of record, within the time prescribed by law, and file this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendants WALMART INC. and SAM'S EAST, INC. in the State Court of Paulding County, Georgia, which is within the Rome Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 23-SV-000094. Plaintiff's claims against Defendants include claims of negligence.

2.

Plaintiff filed the Complaint on or about March 24, 2023. Defendant WALMART INC. received service of summons and a copy of the Complaint on April 11, 2023. Defendant SAM'S EAST, INC. has not yet been served. Defendants file this notice of Removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 702 SW 8th Street, Bentonville, AR 72716.

4.

Defendant Sam's East, Inc. is an Arkansas corporation with its principal place of business in the State of Arkansas, with its parent corporation being Walmart, Inc. Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 702 SW 8th Street, Bentonville, AR 72716.

5.

Carolyn Ito is a citizen of the State of Georgia.

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims personal bodily injuries, past and future pain and suffering, lost wages, past medical expenses of no less than \$41,000, and future medical expenses (see Complaint paragraphs 13, 14, 15, 16, 17). The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as Exhibit "A" copies of all the pleadings that were provided to and served upon Defendants, including copies of all pleadings that have been filed to date in the State Court of Paulding County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Paulding County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants WALMART INC. and SAM'S EAST, INC. pray that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Rome Division.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers

Georgia Bar No. 612725

Attorneys for Defendants

WALMART INC.

SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576

(404) 364-3138 (fax)
jrogers@mmatllegal.com

The undersigned counsel certifies that the foregoing NOTICE OF REMOVAL has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie Rogers
Jennie Rogers

CERTIFICATE OF SERVICE

This is to certify that on April 24, 2023, I electronically filed NOTICE OF REMOVAL with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

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IN THE STATE COURT OF PAULDING COUNTY
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CAROLYN ITO,
Plaintiff,

v.

WALMART INC. & SAM'S EAST INC. d/b/a)
Sam's Club Store No. 4802)
Defendants.)

Civil Action File No. _____


Sheila Butler, Clerk
Paulding County, Georgia

COMPLAINT FOR DAMAGES

Plaintiff Carolyn Ito ("Ms. Ito") files this Complaint for Damages against Defendants and shows the court as follows:

1.

Walmart Inc. is a Delaware profit corporation ("Defendant Walmart") capable of suing and being sued. Defendant Walmart may be served with the Complaint, Summons, and service of process via its Registered Agent: The Corporation Company, 106 Colony Park Drive, Ste. 800-B, Cumming, Forsyth County, Georgia 30040.

2.

Sam's East Inc. is an Arkansas profit corporation ("Defendant Sam's") capable of suing and being sued. Defendant Sam's may be served with the Complaint, Summons, and service of process via its Registered Agent: The Corporation Company, 106 Colony Park Drive, Ste. 800-B, Cumming, Forsyth County, Georgia 30040.

3.

This Court has jurisdiction over these claims and over these parties pursuant to Title 9, Chapter 10, Article 4 of the Official Code of Georgia Annotated.

4.

Venue is proper in this Court pursuant to Title 9, Chapter 10, Article 4 of the

Official Code of Georgia Annotated.

5.

Defendant Walmart and Defendant Sam's (hereinafter collectively "Defendants") operate Sam's Club Store Number 4802 located at 4798 Jimmy Lee Smith Parkway, Hiram, Paulding County, Georgia 30141 (hereinafter "Defendants' Store").

6.

On December 5th, 2021, Ms. Ito was a business invitee of Defendants' Store.

7.

It was raining at the time Ms. Ito visited Defendants' Store.

8.

While entering the store Ms. Ito went to retrieve a shopping buggy. After Ms. Ito retrieved the buggy and began entering past the buggy area into the store, Ms. Ito slipped on a puddle of water and fell.

9.

Even though Ms. Ito was exercising ordinary care for her own safety, she did not see the puddle before she fell.

10.

Ms. Ito was injured when she fell.

11.

There were no warning signs in the area of the puddle informing customers of the wet floor. There were no mats or other floor coverings to prevent customers from slipping or falling on the puddle. There were employees of Defendants in the immediate area that could have and should have noted the dangerous condition of the water and taken steps to correct it or at least warn customers of its existence.

12.

Ms. Ito's fall and her resulting injuries were proximately caused by Defendants'

negligent acts and through no fault of her own, in Defendants' failing to properly maintain the area where Ms. Ito fell.

13.

As a result of the Defendants' negligence, Ms. Ito suffered personal injuries, which were painful and have required medical treatment.

14.

As a result of the Defendants' negligence, Ms. Ito has incurred medical expenses in an amount that is yet to be completely determined but is no less than \$41,000.00.

15.

As a result of the Defendants' negligence, Ms. Ito has incurred lost wages in an amount that is yet to be completely determined.

16.

As a result of Defendants' negligence, Plaintiff has endured pain and suffering and mental anguish in the past, present and into the future.

17.

All of Ms. Ito's damages in the form of personal injuries, medical expenses, lost wages, pain and suffering and mental anguish were proximately caused by Defendants' negligent acts.

WHEREFORE, Ms. Ito prays and demands as follows:

- a) That process issue and service be had upon Defendants;
- b) That she recover from Defendants, the sum of her (1) medical expenses, (2) lost wages and (3) past, present and future pain and suffering and mental anguish as determined by the enlightened conscience of the jury; and
- c) That she have any other relief that the court deems just and proper.

Respectfully submitted this 24th day of March, 2023.

402 W. Bankhead Hwy.
P.O. Box 1034
Villa Rica, Georgia 30180
Ph. 470-284-2500
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Matthew@MomtahanLaw.com

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan
Matthew Momtahan
Georgia Bar No. 858178

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Plaintiff,

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Sam's Club Store No. 4802
Defendants.

Civil Action File No.


Sheila Butler, Clerk
Paulding County, Georgia

LEAVE OF ABSENCE

COMES NOW, Matthew Momtahan, and respectfully notifies all judges before whom he has cases pendings, all affected clerks of court, and all opposing counsel that he will be on leave pursuant to Uniform Superior Court Rule 16, Uniform State Court Rule 16, Uniform Magistrate Court Rule 9, Uniform Probate Court Rule 6.9, and Uniform Municipal Court Rule 9, and Uniform Juvenile Court Rule 16.1.

1. The period of leave during which time Mr. Momtahan will be away from the practice of law is:

- March 27th through 31st, 2023;
- April 3rd through 7th and 11th through 12th, 2023;
- May 9th through 10th, 17th through 19th, and 30th, 2023;
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2. The purpose of the leave is: the applicant will be on vacation, observing state and federal holidays, in legal seminars and continuing education, serving on the Villa Rica, Georgia City Council, and other required functions.
 3. All affected judges and opposing counsel shall have ten days from the date of this Notice to object, and if no objections are filed, the leave shall be granted.

Respectfully submitted March 24, 2023

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan

Matthew Momtahan

Georgia Bar No. 858178

P.O. Box 1034

Villa Rica, Georgia 30180

IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Civil Action File No.
23-SV-000094

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

ANSWER OF DEFENDANTS

COME NOW, Defendants WALMART INC. and SAM'S EAST, INC. d/b/a SAM'S CLUB STORE NO. 4802 (Sam's East, Inc. being the proper defendant) and make this Answer to Plaintiff's Complaint as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against Defendants upon which relief can be granted.

SECOND DEFENSE

Plaintiff's alleged damages, if any, were directly and proximately caused by Plaintiff's own contributory negligence and failure to exercise ordinary care.

THIRD DEFENSE

Plaintiff was not in the exercise of ordinary care for her own safety in the premises, and by the exercise of ordinary care could have avoided any injury to

herself; and on account thereof, Plaintiff is not entitled to recover from Defendants.

FOURTH DEFENSE

Defendants deny that they were negligent in any manner whatsoever or that any negligent act or omission on their part caused or contributed to any injury or damage alleged to have been sustained by Plaintiff.

FIFTH DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby barred from recovering against Defendants.

SIXTH DEFENSE

Defendants respond to the enumerated paragraphs of Plaintiff's Complaint as follows:

1.

Defendants admit the allegations contained in paragraph 1 of the Plaintiff's Complaint.

2.

Defendants admit the allegations contained in paragraph 2 of Plaintiff's Complaint.

3.

Defendants deny the allegations contained in paragraph 3 of the Plaintiff's Complaint. Venue is now proper in the United States District Court, Northern

District of Georgia, Rome Division.

4.

Defendants deny the allegations contained in paragraph 4 of the Plaintiff's Complaint. Venue is now proper in the United States District Court, Northern District of Georgia, Rome Division.

5.

Defendants admit only that Sam's East, Inc. operated the subject store. Defendants deny the remaining allegations contained in paragraph 5 of the Plaintiff's Complaint.

6.

Defendants lack sufficient information to either admit or deny the allegations contained in paragraph 6 of the Plaintiff's Complaint.

7.

Defendants lack sufficient information to either admit or deny the allegations contained in paragraph 7 of the Plaintiff's Complaint at this time.

8.

Defendants deny the allegations contained in paragraph 8 of the Plaintiff's Complaint.

9.

Defendants deny the allegations contained in paragraph 9 of the Plaintiff's

Complaint, as stated.

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Defendants deny the allegations contained in paragraph 10 of the Plaintiff's Complaint.

11.

Defendants deny the allegations contained in paragraph 11 of the Plaintiff's Complaint.

12.

Defendants deny the allegations contained in paragraph 12 of the Plaintiff's Complaint.

13.

Defendants deny the allegations contained in paragraph 13 of the Plaintiff's Complaint.

14.

Defendants deny the allegations contained in paragraph 14 of the Plaintiff's Complaint.

15.

Defendants deny the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16.

Defendants deny the allegations contained in paragraph 16 of the Plaintiff's Complaint.

17.

Defendants deny the allegations contained in paragraph 17 of the Plaintiff's Complaint.

18.

All other allegations contained in the Complaint which are not specifically responded to herein, are, therefore, denied.

19.

Defendants deny Plaintiff's prayer for relief, including subparagraphs (a), (b), and (c) thereof.

WHEREFORE, Defendants pray that Plaintiff's Complaint be dismissed with all costs cast upon the Plaintiff. DEFENDANTS DEMAND TRIAL BY A JURY OF TWELVE (12) PERSONS AS TO ALL ISSUES SO TRIABLE.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers

Georgia Bar No. 612725

Attorneys for Defendants

WALMART INC.

SAM'S EAST, INC.

3445 Peachtree Road, N.E.

Suite 500

Atlanta GA 30326

(404) 364-4576

(404) 364-3138 (fax)

jrogers@mmatllaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing ANSWER OF DEFENDANTS has this day been filed and served upon opposing counsel via Peachcourt eFileGA.

This the 24th day of April, 2023.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllaw.com

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)**DEFENDANT(S)**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

 (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- | | |
|-----------------------------|---|
| 1 U.S. GOVERNMENT PLAINTIFF | 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY) |
| 2 U.S. GOVERNMENT DEFENDANT | 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
 (FOR DIVERSITY CASES ONLY)

- | PLF | DEF | PLF | DEF |
|-----|---|-----|---|
| 1 | 1 CITIZEN OF THIS STATE | 4 | 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| 2 | 2 CITIZEN OF ANOTHER STATE | 5 | 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| 3 | 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | 6 | 6 FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- | | | | | | | |
|--|----------------------------|---------------------------------|--------------------------|--|---------------------------------------|---|
| 1 ORIGINAL PROCEEDING | 2 REMOVED FROM STATE COURT | 3 REMANDED FROM APPELLATE COURT | 4 REINSTATED OR REOPENED | 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District) | 6 MULTIDISTRICT LITIGATION - TRANSFER | 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT |
| 8 MULTIDISTRICT LITIGATION - DIRECT FILE | | | | | | |

V. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

(IF COMPLEX, CHECK REASON BELOW)

- | | |
|--|--|
| 1. Unusually large number of parties. | 6. Problems locating or preserving evidence |
| 2. Unusually large number of claims or defenses. | 7. Pending parallel investigations or actions by government. |
| 3. Factual issues are exceptionally complex | 8. Multiple use of experts. |
| 4. Greater than normal volume of evidence. | 9. Need for discovery outside United States boundaries. |
| 5. Extended discovery period is needed. | 10. Existence of highly technical issues and proof. |

CONTINUED ON REVERSE**FOR OFFICE USE ONLY**

RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ (Referral)	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)CONTRACT - "0" MONTHS DISCOVERY TRACK

150 RECOVERY OF OVERPAYMENT &
ENFORCEMENT OF JUDGMENT
152 RECOVERY OF DEFAULTED STUDENT
LOANS (Excl. Veterans)
153 RECOVERY OF OVERPAYMENT OF
VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

110 INSURANCE
120 MARINE
130 MILLER ACT
140 NEGOTIABLE INSTRUMENT
151 MEDICARE ACT
160 STOCKHOLDERS' SUITS
190 OTHER CONTRACT
195 CONTRACT PRODUCT LIABILITY
196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

210 LAND CONDEMNATION
220 FORECLOSURE
230 RENT LEASE & EJECTMENT
240 TORTS TO LAND
245 TORT PRODUCT LIABILITY
290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

310 AIRPLANE
315 AIRPLANE PRODUCT LIABILITY
320 ASSAULT, LIBEL & SLANDER
330 FEDERAL EMPLOYERS' LIABILITY
340 MARINE
345 MARINE PRODUCT LIABILITY
350 MOTOR VEHICLE
355 MOTOR VEHICLE PRODUCT LIABILITY
360 OTHER PERSONAL INJURY
362 PERSONAL INJURY - MEDICAL
MALPRACTICE
365 PERSONAL INJURY - PRODUCT LIABILITY
367 PERSONAL INJURY - HEALTH CARE/
PHARMACEUTICAL PRODUCT LIABILITY
368 ASBESTOS PERSONAL INJURY PRODUCT
LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

370 OTHER FRAUD
371 TRUTH IN LENDING
380 OTHER PERSONAL PROPERTY DAMAGE
385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

422 APPEAL 28 USC 158
423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

440 OTHER CIVIL RIGHTS
441 VOTING
442 EMPLOYMENT
443 HOUSING/ ACCOMMODATIONS
445 AMERICANS with DISABILITIES - Employment
446 AMERICANS with DISABILITIES - Other
448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

462 NATURALIZATION APPLICATION
465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

463 HABEAS CORPUS- Alien Detainee
510 MOTIONS TO VACATE SENTENCE
530 HABEAS CORPUS
535 HABEAS CORPUS DEATH PENALTY
540 MANDAMUS & OTHER
550 CIVIL RIGHTS - Filed Pro se
555 PRISON CONDITION(S) - Filed Pro se
560 CIVIL DETAINEE: CONDITIONS OF
CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

550 CIVIL RIGHTS - Filed by Counsel
555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

625 DRUG RELATED SEIZURE OF PROPERTY
21 USC 881
690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

710 FAIR LABOR STANDARDS ACT
720 LABOR/MGMT. RELATIONS
740 RAILWAY LABOR ACT
751 FAMILY and MEDICAL LEAVE ACT
790 OTHER LABOR LITIGATION
791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

820 COPYRIGHTS
840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

830 PATENT
835 PATENT-ABBREVIATED NEW DRUG
APPLICATIONS (ANDAs) - a/k/a
Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

861 HIA (1395ff)
862 BLACK LUNG (923)
863 DIWC (405(g))
863 DIWW (405(g))
864 SSID TITLE XVI
865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

870 TAXES (U.S. Plaintiff or Defendant)
871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

375 FALSE CLAIMS ACT
376 Qui Tam 31 USC 3729(a)
400 STATE REAPPORTIONMENT
430 BANKS AND BANKING
450 COMMERCE/ICC RATES/ETC.
460 DEPORTATION
470 RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS
480 CONSUMER CREDIT
490 CABLE/SATELLITE TV
890 OTHER STATUTORY ACTIONS
891 AGRICULTURAL ACTS
893 ENVIRONMENTAL MATTERS
895 FREEDOM OF INFORMATION ACT
899 ADMINISTRATIVE PROCEDURES ACT /
REVIEW OR APPEAL OF AGENCY DECISION
950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

410 ANTI-TRUST
850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

896 ARBITRATION
(Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY
TRACK FOR EACH CASE TYPE.
SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS
DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ Jennie Rogers

April 24, 2023

SIGNATURE OF ATTORNEY OF RECORD

DATE

 **EFILED IN OFFICE**
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
APR 24, 2023 02:51 PM

IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.

NOTICE TO CLERK OF STATE COURT FOR THE
REMOVAL OF ACTION TO FEDERAL COURT

TO: Clerk
State Court of Paulding County

YOU ARE HEREBY notified that Defendants WALMART INC. and SAM'S

EAST, INC. have this date filed a Notice of Removal in the United States District Court for the Northern District of Georgia, Rome Division, removing this action from the State Court of Paulding County, Georgia, to the United States District Court for the Northern District of Georgia, Rome Division, together with copies of all pleadings and papers served on Defendant and all pleadings filed to date. A copy of said Notice of Removal filed in said Federal Court is attached hereto as Exhibit "A" and filed with this Court as provided by the United States Code.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **NOTICE TO CLERK OF STATE COURT FOR THE REMOVAL OF ACTION TO FEDERAL COURT** has this day been filed and served upon opposing counsel via Peachcourt eFileGA.

This the 24th day of April, 2023.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Civil Action File No.

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

NOTICE OF REMOVAL

COME NOW WALMART INC. and SAM'S EAST, INC. d/b/a SAM'S CLUB STORE NO. 4802 (Sam's East, Inc. being the proper Defendant), named Defendants in the above-captioned matter, by and through their counsel of record, within the time prescribed by law, and file this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendants WALMART INC. and SAM'S EAST, INC. in the State Court of Paulding County, Georgia, which is within the Rome Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 23-SV-000094. Plaintiff's claims against Defendants include claims of negligence.

2.

Plaintiff filed the Complaint on or about March 24, 2023. Defendant WALMART INC. received service of summons and a copy of the Complaint on April 11, 2023. Defendant SAM'S EAST, INC. has not yet been served. Defendants file this notice of Removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 702 SW 8th Street, Bentonville, AR 72716.

4.

Defendant Sam's East, Inc. is an Arkansas corporation with its principal place of business in the State of Arkansas, with its parent corporation being Walmart, Inc. Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 702 SW 8th Street, Bentonville, AR 72716.

5.

Carolyn Ito is a citizen of the State of Georgia.

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims personal bodily injuries, past and future pain and suffering, lost wages, past medical expenses of no less than \$41,000, and future medical expenses (see Complaint paragraphs 13, 14, 15, 16, 17). The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as Exhibit "A" copies of all the pleadings that were provided to and served upon Defendants, including copies of all pleadings that have been filed to date in the State Court of Paulding County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Paulding County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants WALMART INC. and SAM'S EAST, INC. pray that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Rome Division.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers

Georgia Bar No. 612725

Attorneys for Defendants

WALMART INC.

SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576

(404) 364-3138 (fax)
jrogers@mmatllegal.com

The undersigned counsel certifies that the foregoing NOTICE OF REMOVAL has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie Rogers
Jennie Rogers

CERTIFICATE OF SERVICE

This is to certify that on April 24, 2023, I electronically filed NOTICE OF REMOVAL with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
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jrogers@mmatllegal.com

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

Carolyn Ito

DEFENDANT(S)

Walmart Inc. & Sam's East, Inc. d/b/a Sam's Club Store No. 4802

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
Paulding

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
Delaware

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Matthew Momtahan, The Momtahan Law Firm, 402 W. Bankhead Hwy, PO Box 1034, Villa Rica, GA 30180; (470) 284-2500; Matthew@momtahanlaw.com

ATTORNEYS (IF KNOWN)

Nicholas E. Deeb, Jennie Rrrogers, McLain & Merritt, PC, 3445 Peachtree Road NE, Suite 500, Atlanta, GA 30326; (404) 365-4535; ndeeb@mmatlflow.com; jrogers@mmatlflow.com

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. GOVERNMENT PLAINTIFF☐ 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)☐ 2 U.S. GOVERNMENT DEFENDANT☒ 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)

PLF DEF
☒ 1 ☐ 1 CITIZEN OF THIS STATE☐ 2 ☐ 2 CITIZEN OF ANOTHER STATE☐ 3 ☐ 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRYPLF DEF
☐ 4 ☐ 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE☒ 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE☐ 6 ☐ 6 FOREIGN NATION**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

☐ 1 ORIGINAL PROCEEDING☒ 2 REMOVED FROM STATE COURT☐ 3 REMANDED FROM APPELLATE COURT☐ 4 REINSTATED OR REOPENED☐ 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)☐ 6 MULTIDISTRICT LITIGATION - TRANSFER☐ 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT☐ 8 MULTIDISTRICT LITIGATION - DIRECT FILE**V. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

(IF COMPLEX, CHECK REASON BELOW)

- ☐ 1. Unusually large number of parties.
- ☐ 2. Unusually large number of claims or defenses.
- ☐ 3. Factual issues are exceptionally complex.
- ☐ 4. Greater than normal volume of evidence.
- ☐ 5. Extended discovery period is needed.

- ☐ 6. Problems locating or preserving evidence.
- ☐ 7. Pending parallel investigations or actions by government.
- ☐ 8. Multiple use of experts.
- ☐ 9. Need for discovery outside United States boundaries.
- ☐ 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT \$ _____

APPLYING IFP _____

MAG. JUDGE (IFP) _____

JUDGE _____

MAG. JUDGE _____

NATURE OF SUIT _____

CAUSE OF ACTION _____

(Referral)

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)CONTRACT - "0" MONTHS DISCOVERY TRACK

- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 151 MEDICARE ACT
- ☐ 160 STOCKHOLDERS' SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☒ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- ☐ 365 PERSONAL INJURY - PRODUCT LIABILITY
- ☐ 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- ☐ 422 APPEAL 28 USC 158
- ☐ 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- ☐ 440 OTHER CIVIL RIGHTS
- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS with DISABILITIES - Employment
- ☐ 446 AMERICANS with DISABILITIES - Other
- ☐ 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- ☐ 463 HABEAS CORPUS- Alien Detainee
- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 HABEAS CORPUS DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER
- ☐ 550 CIVIL RIGHTS - Filed Pro se
- ☐ 555 PRISON CONDITION(S) - Filed Pro se
- ☐ 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- ☐ 550 CIVIL RIGHTS - Filed by Counsel
- ☐ 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- ☐ 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT. RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY and MEDICAL LEAVE ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- ☐ 820 COPYRIGHTS
- ☐ 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- ☐ 830 PATENT
- ☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDAs) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- ☐ 861 HIA (1395ff)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC (405(g))
- ☐ 863 DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- ☐ 375 FALSE CLAIMS ACT
- ☐ 376 Qui Tam 31 USC 3729(a)
- ☐ 400 STATE REAPPORTIONMENT
- ☐ 430 BANKS AND BANKING
- ☐ 450 COMMERCE/ICC RATES/ETC.
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- ☐ 410 ANTI-TRUST
- ☐ 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- ☐ 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND ☒ YES ☐ NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- ☐ 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- ☐ 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- ☐ 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

- ☐ 7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ Jennie Rogers

April 24, 2023

SIGNATURE OF ATTORNEY OF RECORD

DATE

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Civil Action File No.

4:23-cv-00079-WMR

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____/

NOTICE TO TAKE DEPOSITION

TO: Plaintiff, Carolyn Ito by and through her counsel of record,

YOU ARE HEREBY NOTIFIED that on the 14th day of August, 2023 at 11:00 a.m. at the offices of The Momtahan Law Firm, 402 W. Bankhead Hwy, Villa Rica, GA Defendant shall proceed to take the deposition of Carolyn Ito upon oral examination, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure. The deposition will be taken for the purposes of discovery, cross-examination, and for all other lawful purposes. The deposition will be taken before a notary public or some officer duly authorized by law to take deposition. This deposition may also be videotaped by a videographer.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

The undersigned counsel certifies that the foregoing **NOTICE TO TAKE DEPOSITION** has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie Rogers
Jennie Rogers

CERTIFICATE OF SERVICE

This is to certify that on April 25, 2023, I electronically filed an NOTICE TO TAKE DEPOSITION with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Civil Action File No.

4:23-cv-00079-WMR

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

CERTIFICATE REGARDING DISCOVERY

Pursuant to Local Rule 26.3A, the undersigned hereby certifies that the following discovery has been served upon all persons identified in the Certificate of Service attached hereto and incorporated herein by reference:

- 1) DEFENDANTS FIRST INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers

Georgia Bar No. 612725

Attorneys for Defendants

WALMART INC.

SAM'S EAST, INC.

3445 Peachtree Road, N.E.

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(404) 364-3138 (fax)

jrogers@mmatl律.com

CERTIFICATE OF SERVICE

This is to certify that on April 25, 2023, I electronically filed a **CERTIFICATE REGARDING DISCOVERY** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
4:23-cv-00079-WMR

DEFENDANT SAM'S EAST, INC. CORPORATE DISCLOSURE STATEMENT

COME NOW, Defendant Sam's East, Inc. [the correctly designated corporate Defendant] through its undersigned counsel of record, and, pursuant to Fed. R. Civ. P. 7.1 and to Local Rule 87.1, hereby discloses the following:

Defendant is an Arkansas corporation with its principal place of business in Arkansas, and with its parent corporation being Walmart Inc formerly known as Wal-Mart Stores, Inc. Walmart, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 702 SW 8th Street, Bentonville, AR 72716.

The only publicly held company which owns 10% or more of this Defendant's stock is Walmart Inc.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

The undersigned counsel certifies that the foregoing **Defendant Sam's East, Inc.'s Corporate Disclosure Statement** has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie Rogers

Jennie Rogers

CERTIFICATE OF SERVICE

This is to certify that on April 25, 2023, I electronically filed a **DEFENDANT SAM'S EAST, INC. CORPORATE DISCLOSURE STATEMENT** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Civil Action File No.
4:23-cv-00079-WMR

Plaintiff,

v.

WALMART INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____/

DEFENDANT WALMART INC.'S
CORPORATE DISCLOSURE STATEMENT

COMES NOW, Defendant by through its undersigned counsel of record, and, pursuant to Fed. R. Civ. P. 7.1 and to Local Rule 87.1, hereby discloses the following subsidiary corporations of Defendant Walmart Inc.:

- ASDA Group Limited
- Beaver Lake Aviation, Inc.
- Bharti Walmart Private Limited
- Central American Retail Holding Company N.V.
- Walmart Claims Services, Inc. (formerly known as Claims Management, Inc.)
- Corporacion de Companias Agroindustriales

- Corporacion de Supermercados Unidos S.A.
- Distribucion y Servicio D&S S.A.
- La Fruga S.A.
- Massmart Holdings Ltd.
- Sam's East, Inc.
- Sam's Real Estate Business Trust
- Sam's West, Inc.
- Texas Retail Energy, LLC
- The Seiyu, Ltd.
- Wal-Mart Argentina S.R.L.
- Wal-Mart Associates, Inc.
- Wal-Mart Brasil, Ltda.
- Wal-Mart Canada Corp.
- Wal-Mart China Co., Ltd.
- Walmart de México, S.A. de C.V.
- Wal-Mart Leasing, Inc.
- Wal-Mart Louisiana, LLC
- Wal-Mart Puerto Rico, Inc.
- Wal-Mart Real Estate Business Trust

- Wal-Mart Stores Arkansas, LLC
- Wal-Mart Stores East, LP
- Wal-Mart Stores Texas, LLC
- Wal-Mart Transportation, LLC
- Wal-Mart.com USA, LLC
- WMSupermercados do Brasil, S.A. (formerly Sonae Distribuicao Brasil S.A.)

No publicly held company owns 10% or more of this Defendant's stock.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

The undersigned counsel certifies that the foregoing **Defendant Walmart Inc.'s Corporate Disclosure Statement** has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie Rogers

Jennie Rogers

CERTIFICATE OF SERVICE

This is to certify that on April 25, 2023, I electronically filed an DEFENDANT WALMART INC.'S CORPORATE DISCLOSURE STATEMENT with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie Rogers

Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendants
WALMART INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 364-4576
(404) 364-3138 (fax)
jrogers@mmatllaw.com

FILED IN OFFICE
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
APR 12, 2023 09:46 AM

AFFIDAVIT OF SERVICE

State of Georgia

County of PAULDING

Case Number: 23-SV-00094

Plaintiff:
CAROLYN ITO

vs.

Defendant:
WALMART, INC., SAM'S EAST INC.

For:
MATTHEW MOMTAHAN
THE MOMTAHAN LAW FIRM
PO BOX 1034
VILLA RICA, GA 30180

Received by Platinum Process Servers on the 11th day of April, 2023 at 10:48 am to be served on
**SAM'S EAST INC. DBA SAM'S CLUB STORE NO. 4802 C/O THE CORPORATION COMPANY, 106
COLONY PARK DR, 800-B, CUMMING, GA 30040.**

I, Jason Garmon GA CPS #356, being duly sworn, depose and say that on the **11th day of April, 2023**
at **1:00 pm, I:**

served a **REGISTERED AGENT** by delivering a true copy of the **SUMMONS, COMPLAINT FOR
DAMAGES, GENERAL CIVIL AND DOMESTIC CASE FILING INFORMATION FORM, LOA** with the
date and hour of service endorsed thereon by me, to: **DAYVON JACKSON as Registered Agent** at the
address of: **106 COLONY PARK DR, 800-B, CUMMING, GA 30040** on behalf of **SAM'S EAST INC. DBA
SAM'S CLUB STORE NO. 4802**, and informed said person of the contents therein, in compliance with
state statutes.

Additional Information pertaining to this Service:

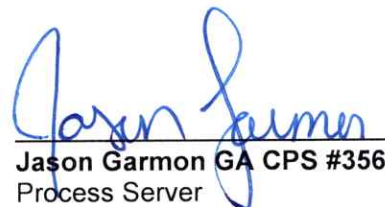
4/11/2023 1:00 pm DOCUMENTS DELIVERED INTO HANDS OF DAYVON JACKSON, INTAKE.

Description of Person Served: Age: ~35, Sex: M, Race/Skin Color: BLACK, Height: 5'8, Weight: 175,
Hair: BLACK, Glasses: N

Subscribed and Sworn to before me on the 11th
day of April, 2023 by the affiant who is personally
known to me.

NOTARY PUBLIC




Jason Garmon GA CPS #356
Process Server

Platinum Process Servers
4434 Hidden Oaks Drive
Flowery Branch, GA 30542
(239) 344-6997

Our Job Serial Number: PTU-2023000155

AFFIDAVIT OF SERVICE

State of Georgia

County of PAULDING

State Court

Case Number: 23-SV-00094

Plaintiff:

CAROLYN ITO

vs.

Defendant:

WALMART, INC., SAM'S EAST INC.

For:

MATTHEW MONTAHAN
THE MONTAHAN LAW FIRM
PO BOX 1034
VILLA RICA, GA 30180

Received by Platinum Process Servers on the 11th day of April, 2023 at 10:48 am to be served on **WALMART, INC. DBA SAM'S CLUB STORE NO. 4802 C/O THE CORPORATION COMPANY, 106 COLONY PARK DR, 800-B, CUMMING, GA.**

I, Jason Garmon GA CPS #356, being duly sworn, depose and say that on the **11th day of April, 2023** at **1:00 pm, I:**

served a **REGISTERED AGENT** by delivering a true copy of the **SUMMONS, COMPLAINT FOR DAMAGES, GENERAL CIVIL AND DOMESTIC CASE FILING INFORMATION FORM, LOA** with the date and hour of service endorsed thereon by me, to: **DAYVON JACKSON** as **Registered Agent** at the address of: **106 COLONY PARK DR, 800-B, CUMMING, GA 30040** on behalf of **WALMART, INC. DBA SAM'S CLUB STORE NO. 4802**, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

4/11/2023 1:00 pm DOCUMENTS DELIVERED INTO HANDS OF DAYVON JACKSON, INTAKE.

Description of Person Served: Age: ~35, Sex: M, Race/Skin Color: BLACK, Height: 5'8, Weight: 175, Hair: BLACK, Glasses: N

Subscribed and Sworn to before me on the 11th day of April, 2023 by the affiant who is personally known to me.

NOTARY PUBLIC



Jason Garmon GA CPS #356
Process Server

Platinum Process Servers
4434 Hidden Oaks Drive
Flowery Branch, GA 30542
(239) 344-6997

Our Job Serial Number: PTU-2023000154

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,)	
Plaintiff,)	
)	Civil Action File No.
v.)	4:23-cv-00079-WMR
)	
WALMART INC. & SAM'S EAST INC. d/b/a)	
Sam's Club Store No. 4802)	
Defendants.)	

MOTION TO REMAND TO PAULDING COUNTY STATE COURT

This Court should remand this case back to Paulding County State Court because Defendants have failed to meet their burden to establish the amount in controversy exceeds \$75,000.00, the mix of specified and unspecified damages alleged in Ms. Ito's Complaint does not establish the amount in controversy, and Defendants' removal of this case to this Court is an impermissible and unconstitutional expansion of this Court's jurisdiction over state law claims that should be heard in state courts.

I. FACTUAL & PROCEDURAL HISTORY

This case arises from Plaintiff Ms. Carolyn Ito's slip and fall incident at Defendants' store located in Hiram, Georgia. See Plaintiff's Complaint ("Compl.") at ¶¶ 6 – 8. Ms. Ito suffered injuries as a result of her fall. Id. at ¶

13. Ms. Ito filed the instant lawsuit in Paulding County State Court on March 23rd, 2023. *Id. generally*. Defendants filed a Notice of Removal (“Defendants’ Removal Notice”) to this Court on April 24, 2023. (Doc. 1). Defendants’ Removal Notice contends that this Court has jurisdiction over Ms. Ito’s case because under 28 U.S.C. § 1332’s diversity jurisdiction.

II. ARGUMENT & CITATION TO AUTHORITY

A. Standard of Review

The Eleventh Circuit Court of Appeals has held that “[b]ecause removal jurisdiction raises significant federalism concerns, federal courts are directed to construe removal statutes strictly. [] Indeed, all doubts about jurisdiction should be resolved in favor of remand to state court. []” Univ. of S. Ala. v. Am. Tobacco Co., 168 F.3d 405, 411 (11th Cir. 1999) (Internal citations omitted). And, the Party seeking removal bears the burden of proving federal jurisdiction.” Williams v. Best Buy, 269 F.3d 1316, 1319 (11th Cir. 2001) *see also* McNutt v. General Motors Acceptance Corp. of Indiana, 298 U.S. 178, 182-183 (1936). Viewed in this light, this Court should remand Ms. Ito’s case back to Paulding County State Court.

B. This Court Should Remand Ms. Ito's Case to Paulding County State Court Because There Is No Evidence That The Amount In Controversy Exceeds \$75,000.00.

28 U.S.C. 1332 grants this Court diversity jurisdiction over state law claims “where the suit is between citizens of different states and the amount in controversy exceeds the statutorily prescribed amount of \$75,000.00.” Williams, 269 F.3d 1319. In assessing the amount in controversy, “[a] conclusory allegation in the notice of removal that the jurisdictional amount is satisfied, without setting forth the underlying facts supporting such an assertion, is insufficient to meet the defendant's burden.” *Id.* at 1319-1320.

Here, Defendants’ Removal Notice points to Ms. Ito’s special damages claim in the amount of \$41,000.00 and Ms. Ito’s general damages claims and concludes that the jurisdictional threshold of \$75,000.00 has been met. Defendants have not provided any evidence to support their conclusion that the amount in controversy is greater than \$75,000.00. The Defendants cannot now try to create or present new evidence because “[a] court's analysis of the amount-in-controversy requirement focuses on how much is in controversy at the time of removal, not later.” Pretka v. Kolter City Plaza II, Inc., 608 F.3d 744, 754 (11th Cir. 2010) applied to non-CAFA cases in LeBlanc v. Ga. CVS

Pharmacy, LLC, No. CV 118-159, 2018 U.S. Dist. LEXIS 190678, at *3 (S.D. Ga. Nov. 7, 2018) and Walker v. Cherokee Ins. Co., No. CV 120-015, 2020 U.S. Dist. LEXIS 67936, at *5 (S.D. Ga. Mar. 9, 2020).

District Courts in the Eleventh Circuit have held that where there is “a specified damage demand of less than \$75,000 but [the plaintiff] alleges other damages in an unspecified amount, the court may find that jurisdictional amount requirement is met if the preponderance of the evidence shows it is more likely than not that jurisdictional amount requirement is satisfied. Robinson v. Peck, 1:14-cv-01628-WSD, 2014 U.S. Dist. LEXIS, at 159198 at *8 (N.D. Ga. Nov. 12, 2014).

In Robinson the plaintiff alleged generalized facts about his fall and a generic list of unspecified damages. Id. at * 11-13. The Robinson court found this information did not prove, by a preponderance of the evidence, that the claim more likely than not exceed the jurisdictional amount.” Id. at 13. Here, Ms. Ito’s Complaint specifies damages of at least \$41,000.00 and unspecified general damages.

And, the Eleventh Circuit Court of Appeals has held that where there is a mix of specific damages amounts and unspecified damages amount, that the district court “may use their judicial experience and common sense in

determining whether the case stated in a complaint meets federal jurisdictional requirements. Roe v. Michelin N. Am., Inc., 613 F.3d 1058, 1062 (11th Cir. 2010). Indeed, numerous Eleventh Circuit District Courts have found that similar mixes of specified and unspecified damages were insufficient to convey federal jurisdiction. Black v. Moore, 1:21-cv-2305-MLB, 2021 U.S. Dist. LEXIS 213214 *; 2021 WL 5121702 (N.D. Ga. Nov. 4, 2021) (granting remand where specific damages were pled in the amount of \$29,482.00 along with future special damages and general damages in an undisclosed amount); Isaac v. Wal-Mart Stores E., LP, No. 22-60025-CIV-SMITH, 2022 U.S. Dist. LEXIS 26013, (S.D. Fla. Feb. 11, 2022) (granting remand where specific damages were pled in the amount of \$30,000.00 and demand was made in the amount of \$150,000.00); Nuckles v. Walmart Stores E., L.P., No. CV 122-088, 2022 U.S. Dist. LEXIS 150362, (S.D. Ga. Aug. 22, 2022) (recommending remand where specific damages were pled in the amount of \$32,520.28) recommendation adopted in Nuckles v. Walmart Stores E., L.P., No. CV 122-088, 2022 U.S. Dist. LEXIS 165089, (S.D. Ga. Sep. 13, 2022); Walker v. Cherokee Ins. Co., No. CV 120-015, 2020 U.S. Dist. LEXIS 67936, (S.D. Ga. Mar. 9, 2020) (recommending remand where specific damages were pled in an amount greater than \$30,000.00) recommendation adopted in

Walker v. Cherokee Ins. Co., No. CV 120-015, 2020 U.S. Dist. LEXIS 67155, (S.D. Ga. Apr. 16, 2020); Williams v. Walmart Stores E., LP, No. CV 118-083, 2018 U.S. Dist. LEXIS 132889 (S.D. Ga. July 9, 2018) (recommending remand where specific damages were pled in the amount of \$53,862.58) recommendation adopted in Williams v. Walmart Stores E., LP, No. CV 118-083, 2018 U.S. Dist. LEXIS 132399 (S.D. Ga. Aug. 7, 2018).

Finally, Eleventh Circuit District Courts are reluctant to expand federal court jurisdiction in cases where the value of the amount in controversy is not clear. Ransom v. Wal-Mart Stores, 920 F. Supp. 176, 178 (M.D. Ga. 1996) (“If the mere allegation that the plaintiff was ‘seriously injured’ sufficed to establish the jurisdictional amount, then virtually every personal injury case could be removed to federal court. The amount in controversy requirement would be rendered meaningless.”) *see also* Green v. Travelers Indem. Co., No. 3:11-cv-922-J-37TEM, 2011 U.S. Dist. LEXIS 120415, at *9 (M.D. Fla. Oct. 18, 2011) and Griffith v. Wal-Mart Stores E., L.P., 884 F. Supp. 2d 1218, 1221 (N.D. Ala. 2012) (“[t]he jurisdiction of a court over the subject matter of a claim involves the court's competency to consider a given type of case, and cannot be waived or otherwise conferred upon the court by the parties. Otherwise, a party could ‘work a wrongful extension of federal jurisdiction and give district courts

power the Congress denied them.”) *quoting Jackson v. Seaboard Coast Line R.R.*, 678 F.2d 992, 1000-01 (11th Cir. 1982).

Here, the only evidence of the amount in controversy is Ms. Ito’s claim for medical bills of not less than \$41,000.00. Defendants’ Removal Notice does not carry their burden that the amount in controversy exceeds \$75,000.00. Rather, it appears that Defendants seek to unconstitutionally expand and extend this Court’s jurisdiction. *Univ. of S. Ala.*, 168 F.3d 409-10. (“[W]hen a federal court acts outside its statutory subject-matter jurisdiction, it violates the fundamental constitutional precept of limited federal power. [] such an action unconstitutionally invades the powers reserved to the states to determine controversies in their own courts.”) (Internal citations omitted.)

III. CONCLUSION

In conclusion, this Court should remand this case back to Paulding County State Court because Defendants have failed to meet their burden to establish the amount in controversy exceeds \$75,000.00. the mix of specified and unspecified damages alleged in Ms. Ito’s Complaint does not establish the amount in controversy, and Defendants’ removal of this case to this Court is an impermissible and unconstitutional expansion of this Court’s jurisdiction over state law claims that should be heard in state courts.

Respectfully submitted this 11th day of May, 2023.

402 W. Bankhead Hwy.
P.O. Box 1034

Villa Rica, Georgia 30180
Ph. 470-284-2500
Fx. 470-284-2501
Matthew@MomtahanLaw.com

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178

LR 5.1(B) CERTIFICATE

I hereby certify that this brief has been prepared with one of the font and point selections approved by the Court in LR 5.1(B).

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178

CERTIFICATE OF SERVICE

I hereby certify that this day, I electronically filed the foregoing **Motion to Remand to Paulding County State Court** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Jennie Rogers
McLain & Merritt, P.C.
3445 Peachtree Road, N.E., Suite 500
Atlanta GA 30326
jrogers@mmatlaw.com

/s/ Matthew Momtahan
Matthew Momtahan
Georgia Bar No. 858178

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
4:23-CV-00079-WMR

DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO REMAND

COME NOW WALMART, INC. and SAM'S EAST, INC. d/b/a SAM'S CLUB STORE NO. 4802 (Sam's East, Inc. being the proper Defendant), by and through their counsel of record, and file this response to Plaintiff's Motion to Remand. Defendants removed the instant matter to this Court pursuant to the Court's diversity of citizenship subject matter jurisdiction. (D-1) Plaintiff does not dispute that complete diversity exists. She objects that Defendant have not provided sufficient evidence that the amount in controversy exceeds \$75,000.

As the U.S. Court of Appeals for the Eleventh Circuit has stated, "courts may use their judicial experience and common sense in determining whether the case stated in a complaint meets federal jurisdictional requirements." Roe v. Michelin North America, 613 F.3d 1058, 1061 (11th Cir. 2010). Because Defendants cannot second guess the Court, Defendants filed their Removal to protect

themselves. Failure to timely file would completely bar removal, if the amount in controversy was deemed to be sufficient.

A diverse plaintiff cannot “defeat federal jurisdiction simply by drafting his pleadings in a way that did not specify an approximate value of the claims and thereafter provide the defendant with no details on the value of the claim.” Pretka v. Kolter City Plaza II, Inc., 608 F.3d 744, 754 (11th Cir. 2010). See also, Cameron v. Teeberry Logistics, 920 F.Supp.2d 1309 (N.D.Ga. 2013) (plaintiff held to be in bad faith). Here, Plaintiff and Plaintiff’s counsel have provided no information concerning her damages, other than the allegations in her Complaint. Plaintiff has stated she suffered injuries “which were painful and have required medical treatment,” a claim for medical expenses of “no less than \$41,000,” unspecified lost wages, and past, present and future pain and suffering. (D1-1, p. 3-4, paras. 13-16)

This Court is not required to ignore the obvious import of Plaintiff’s own allegations concerning the various elements of her alleged damages. Pretka v. Kolter City Plaza II, Inc., 608 F.3d 744, 754 (11th Cir. 2010). As this Court is undoubtedly aware, it is not uncommon for a personal injury case with “not less than” \$41,000 in documented past medical expenses to result in a six-figure judgment. “The point is that a removing defendant is not required to prove the amount in controversy beyond all doubt or to banish all uncertainty about it.” Pretka v. Kolter City Plaza II, Inc., 608 F.3d 744, 754 (11th Cir. 2010). See also,

Cameron v. Teeberry Logistics, 920 F.Supp.2d 1309 (N.D.Ga. 2013)(plaintiff held to be in bad faith). Based upon Plaintiff's own Complaint, the total amount in controversy in this matter could easily exceed \$75,000.

However, should this Court determine that there is insufficient evidence to support removal at this time, Defendants reserve the right to remove this case at a later date should more information be provided in discovery which would support removal. Pretka v. Kolter City Plaza II, Inc., 608 F.3d 744, 754 (11th Cir. 2010). See also, Cameron v. Teeberry Logistics, 920 F.Supp.2d 1309 (N.D.Ga. 2013)(plaintiff held to be in bad faith).

With this reservation of the right to remove at a later date, Defendants do not oppose Remand.

McLAIN & MERRITT, P.C.

/s/ Jennie E. Rogers

Jennie E. Rogers

Georgia Bar No. 612725

Attorney for Defendant

WAL-MART STORES EAST LP

3445 Peachtree Road, N.E., Suite 500

Atlanta GA 30326-3240

(404) 365-4576

(404) 364-3138 (Fax)

jrogers@mmatllegal.com

CERTIFICATE OF SERVICE

This is to certify that on May 15, 2023, I electronically filed **DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO REMAND** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie E. Rogers
Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326-3240
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

CAROLYN ITO,

Plaintiff,

v.

WALMART INC. and SAM’S EAST, INC.
d/b/a SAM’S CLUB STORE NO. 4802,

Defendant.

CIVIL ACTION FILE NO.
4:23-CV-00079-WMR

ORDER

This matter is before the Court on Plaintiff Carolyn Ito’s Motion to Remand. [Doc. 7]. Based on the parties’ arguments, the record, and the governing law, Plaintiff’s motion is **GRANTED**.

I. BACKGROUND

This case arises out of Plaintiff’s slip and fall incident at Defendants’ store in Hiram, Georgia. [Doc. 1-1 at 2–3]. As is relevant for this motion, Plaintiff originally filed this case in the State Court of Paulding County, Georgia. [*Id. at 1*]. Defendants removed the case this to Court on the basis of diversity jurisdiction. [Doc. 1 at 2–4]. Defendants assert that the parties are citizens of different states and that, based on “personal bodily injuries, past and future pain and suffering, lost wages, past medical expenses of no less than \$41,000, and future medical expenses,” the amount

controversy exceeds \$75,000. [*Id.* at 3]. Now, Plaintiff asks this Court to remand this case to state court on the basis that the Court lacks jurisdiction to hear this case because the amount in controversy does not exceed \$75,000. [Doc. 7 at 3].

II. LEGAL STANDARD

As courts of limited subject matter jurisdiction, federal courts are “empowered to hear only those cases within the judicial power of the United States as defined by Article III of the Constitution or otherwise authorized by Congress.” *Taylor v. Appleton*, 30 F.3d 1365, 1367 (11th Cir. 1994). Thus, “when an action is removed from state court, the district court first must determine whether it has original jurisdiction over the plaintiff’s claims.” *Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999). Other than cases arising out of the Constitution or law of the United States, district courts have diversity jurisdiction over civil actions between citizens of different states with an amount in controversy exceeding \$75,000. 28 U.S.C. § 1332(a)(1). Diversity jurisdiction requires that “the citizenship of every plaintiff must be diverse from the citizenship of every defendant.” *Legg v. Wyeth*, 428 F.3d 1317, 1320 n.2 (11th Cir. 2005). Likewise, removal based on diversity jurisdiction requires the removing party to assert that the amount in controversy requirement is met. *Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1060–61 (11th Cir. 2010). If the plaintiff brings “an unspecified demand for damages in state court” the removing defendants must prove by a preponderance of the evidence

that the amount in controversy is met. *Id.* at 1061. However, if the removing defendants assert that it is apparent from the face of the complaint that the amount in controversy is met, “the district court must evaluate whether the complaint itself satisfies the defendant’s jurisdictional burden.” *Id.* In doing so, the court may make “reasonable deductions, reasonable inferences, or other reasonable extrapolations.” *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 754 (11th Cir. 2010).

III. DISCUSSION

The parties do not dispute that there is complete diversity between the parties in this case. [Doc. 1 at 2-3; Doc. 7 at 3]. Instead, Plaintiff asserts that Defendants failed to demonstrate by a preponderance of the evidence that Plaintiff’s claim exceeds the \$75,000 threshold required for this Court to have jurisdiction over this case, and thus this Court lacks diversity jurisdiction. [Doc. 7 at 3]. Defendants’ notice of removal does not explicitly lay out the amount that they expect Plaintiff will seek, but Defendants do state that the amount in controversy requirement is met because of both the explicit amount Plaintiff listed for past medical damages in the Complaint, \$41,000, and the speculated amount they perceive Plaintiff will seek to compensate for “personal bodily injuries, past and future pain and suffering, lost wages,...and future medical expenses.” [Doc. 1 at 3]. In the motion before the Court, Plaintiff argues that Defendants have presented no additional evidence to show that Plaintiff’s claim will exceed \$75,000, and Plaintiff asserts that permitting the

removal of this case will allow an unconstitutional expansion of this Court's jurisdiction. [Doc. 7 at 3-7]. In response, Defendants raise that the Complaint was crafted to avoid describing damages more specifically and argues that pleadings lacking in detail should not be a means Plaintiff can utilize to avoid being subject to the jurisdiction of this Court. [Doc. 8 at 1-2]. Because of the types of Damages Plaintiff seeks, Defendants assert that Plaintiff's claim could easily exceed the \$75,000 threshold. [*Id.* at 3]. The Court does not find that this assertion alone is enough evidence to support removal.

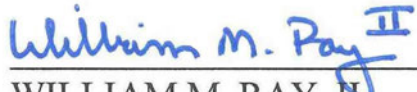
Here, Defendants provide no evidence as to why Plaintiff's claim must exceed the \$75,000 amount in controversy requirement other than simply demonstrating that Plaintiff seeks relief for several categories of damages. [Doc. 1 at 3]. While Defendants' assumption is certainly possible, the generalities discussed by Defendants alone are insufficient to justify removal. *See, e.g., Robinson v. Peck*, 1:14-cv-01628-WSD, 2014 WL 5857235 at *4 (N.D. Ga. Nov. 12, 2014) (holding that a list of categories with unspecified damages is insufficient to show by the preponderance of the evidence that the amount in controversy is met). Further, as the Plaintiff correctly noted, the Eleventh Circuit Court of Appeals requires that "all doubts about jurisdiction should be resolved in favor of remand to state court." *Univ. of S. Ala.*, 168 F.3d at 411. Thus, the Court finds that Defendants have not met their burden of demonstrating that the amount in controversy requirement is met.

Defendants note that, if the Court finds the evidence presented insufficient to justify removal, they “reserve the right to remove the case at a later date should more information be provided in discovery which would support removal.” [Doc. 8 at 3]. The Court recognizes this right subject to the limitations of 28 U.S.C. § 1446.

IV. CONCLUSION

Because the Court does not have diversity jurisdiction over this case, it finds that Defendants improperly removed this case to federal court. Thus, Plaintiff’s motion [Doc. 7] is **GRANTED** and this case is **REMANDED** to State Court of Paulding County, Georgia.

IT IS SO ORDERED, this 21st day of June, 2023.



WILLIAM M. RAY, II
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3318
www.gand.uscourts.gov

KEVIN P. WEIMER
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

June 22, 2023

Ms. Sheila Butler, Clerk
Paulding County Superior Court
280 Constitution Boulevard
Room 1023
Dallas, GA 30132

RE: CAROLYN ITO v. WALMART INC. ET AL
Your Case Number: 23-SV-000094

Dear Ms. Butler:

Enclosed is a certified copy of an order entered by this court in the above-styled action remanding said action to your court.

Sincerely,

Kevin P. Weimer
District Court Executive
and Clerk of Court

By: s/ T. Schoolcraft
Deputy Clerk

Enclosure


FILED IN OFFICE
 CLERK OF STATE COURT
 PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
JUL 13, 2023 12:34 PM

IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO
Plaintiff

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a Sam's Club Store No. 4802
Defendants.

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§
§

CIVIL ACTION FILE NO.:
23-SV-000094


 Sheila Butler, Clerk
 Paulding County, Georgia

RULE 5.2 CERTIFICATE OF SERVICE

I hereby certify that pursuant to USCR 5.2 that on July 12th, 2023 I served a copy of:

- *Plaintiff's Response to Defendant Sam's East, Inc.'s First Interrogatories and Request for Production to Plaintiff*

and on July 13th, 2023, I served a copy of:

- *Plaintiff's First Interrogatories to Defendants;*
- *Plaintiff's First Request for Production of Documents and Things and Notice to Produce to Defendants; and*
- *this Rule 5.2 Certificate of Service*

upon the counsel of record in this matter ☐ by hand delivery, ☐ by facsimile, ☒ by statutory electronic service, or ☐ by placing a copy of same in the United States Mail with sufficient postage affixed thereon to ensure delivery as follows:

Jennie Rogers
jrogers@mmatl1aw.com

Submitted this the 13th day of July, 2023.

402 W. Bankhead Hwy.
P.O. Box 1034
Villa Rica, Georgia 30180
Ph. 470-284-2500
Fx. 470-284-2501
Matthew@MomtahanLaw.com

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178
Attorney for Plaintiff

 **EFILED IN OFFICE**
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
AUG 14, 2023 09:39 AM

Sheila Butler, Clerk
Paulding County, Georgia

To: All Judges, Clerks of Court, and Counsel of Record
From: Jennie E. Rogers
Date: August 14, 2023

Notice of Leave of Absence

Jennie E. Rogers respectfully notifies all Judges before whom she has cases pending, all affected Clerks of Court, and all opposing counsel, that she will be on leave pursuant to Georgia Uniform Court Rule 16.1:

1. A list of the actions to be protected, including action numbers: see Exhibit 1, attached;
2. The reasons for the request are for medical/surgical procedures.
3. The duration of the requested leave is:

August 23, 2023 through October 23, 2023

Under the Rule, opposing counsel shall have 10 days from the date of this Notice to object. If no objections are filed, the Leave of Absence will stand granted.

Submitted, this the 14th day of August, 2023.

McLAIN & MERRITT, P.C.



Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant

3445 Peachtree Road, N.E., Suite 500

Atlanta, GA 30326

(404) 365-4576

(404) 364-3138 (fax)

jrogers@mmatllegal.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **NOTICE OF LEAVE OF ABSENCE** has this day been filed and served upon opposing counsel via the eFiling system which will automatically send email notification of such filing to attorneys of record.

This the 14th day of August, 2023.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'J. Rogers', written over a horizontal line.

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

Exhibit 1 -Paulding County State Court

Case Name/Case No.	Judge/Venue	Interested Counsel
<i>Ito, Carolyn v. Walmart, Inc. & Sam's East, Inc., d/b/a Sam's Club Store No. 4802</i> CAF#23-SV-000094	Hon. Angela O'Connor	Matthew Momtahan The Momtahan Law Firm PO Box 1034 Villa Rica, GA 30180

 **EFILED IN OFFICE**
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
SEP 13, 2023 11:41 AM

**IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA**

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

CERTIFICATE REGARDING DISCOVERY

Pursuant to Uniform State Court Rule 5.2, as amended, the undersigned hereby certifies that the following discovery has been served upon all persons identified in the Certificate of Service attached hereto and incorporated herein by reference:

1. DEFENDANTS' ANSWERS TO PLAINTIFF'S FIRST INTERROGATORIES
2. DEFENDANTS' RESPONSES TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

This the 13th day of September, 2023.

(SIGNATURE ON FOLLOWING PAGE)

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'J. Rogers', with a long horizontal flourish extending to the right.

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **CERTIFICATE REGARDING DISCOVERY** has this day been filed and served upon opposing counsel via PeachCourt.

This the 13th day of September, 2023.

McLAIN & MERRITT, P.C.



Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatlaw.com

FILED IN OFFICE
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
SEP 19, 2023 11:33 AM

IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

CERTIFICATE REGARDING DISCOVERY

Pursuant to Uniform State Court Rule 5.2, as amended, the undersigned hereby certifies that the following discovery has been served upon all persons identified in the Certificate of Service attached hereto and incorporated herein by reference:

Non-Party Subpoenas have been served as follows:

1. Benchmark PT
2. Bortolazzo Group
3. Elite Radiology
4. Medici Medical Arts LLC
5. Medici Surgical Center
6. Piedmont Urgent Care
7. Wellstar Paulding
8. Dr. Ketan Desai
9. Dr. Richard J. Breckwoldt

This the 19th day of September, 2023.

(SIGNATURE ON FOLLOWING PAGE)

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'J. Rogers', written over a horizontal line.

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **CERTIFICATE REGARDING DISCOVERY** has this day been filed and served upon opposing counsel via PeachCourt.

This the 19th day of September, 2023.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'J. Rogers', written over a horizontal line.

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatlalaw.com

 **FILED IN OFFICE**
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
OCT 09, 2023 11:34 AM

**IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA**

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

AMENDED NOTICE TO TAKE DEPOSITION

YOU ARE HEREBY notified that beginning on the 29th day of November, 2023, commencing at 11:00 a.m., via Zoom videoconferencing, the deposition will be taken of Carolyn Ito. Said deposition will be taken for purposes of discovery and all other purposes provided by law before an officer duly authorized to administer oaths. The deposition shall continue from day-to-day until completion. This deposition may also be videotaped by a videographer.

This the 9th day of October, 2023.

McLAIN & MERRITT, P.C.



Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500

Atlanta, GA 30326

(404) 365-4576

(404) 364-3138 (fax)

jrogers@mmatlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing **AMENDED NOTICE OF TAKING DEPOSITION** has this day been filed and served upon opposing counsel via PeachCourt eFile.

This the 9th day of October, 2023.

McLAIN & MERRITT, P.C.



Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

 **EFILED IN OFFICE**
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
OCT 24, 2023 11:41 AM

**IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA**

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____/

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

CONSENT MOTION TO EXTEND THE DISCOVERY PERIOD

Plaintiff and Defendant move this Court for an Order extending the time for completion of discovery to and through **February 25, 2024**. The Complaint was filed on March 24, 2023, and a timely answer was filed on April 24, 2023.

The parties have diligently conducted discovery, including the exchange of written discovery and the completion of the deposition of Plaintiff. The parties have sent out non-party requests to medical providers. A number of the requests have not been provided and both parties continue to have some challenges in obtaining those records.

The parties need additional time to obtain the remaining non-party requests, for Plaintiff to complete her medical care, for Plaintiff to supplement her discovery responses with any additional treatment information, if needed, and to schedule

the remaining depositions of the Sam's Club employee depositions, treating physicians, and experts in December and January.

WHEREFORE, the parties request that this Honorable Court enter the attached Consent Order extending the time for the completion of discovery through **February 25, 2024**.

Respectfully submitted,

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178
Attorney for Plaintiff
P.O. Box 1034
Villa Rica, GA 30180
(470) 284-2500
matthew@momtahanlaw.com

/s/ Jennie E. Rogers

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant
3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326-3240
(404) 365-4576
jrogers@mmatllaw.com

IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
23-SV-000094

CONSENT ORDER EXTENDING THE DISCOVERY PERIOD

For good cause shown, and with the consent of all parties, IT IS HEREBY ORDERED that the time within which discovery may be completed in the above-styled case is hereby extended through and including **February 25, 2024**.

SO ORDERED this ____ day of _____, 2023.

Honorable Angela O'Connor
State Court of Paulding County

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178
Attorney for Plaintiff
P.O. Box 1034
Villa Rica, GA 30180
(470) 284-2500
matthew@momtahanlaw.com

/s/ Jennie E. Rogers

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant
3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326-3240
(404) 365-4576
jrogers@mmatllaw.com

FILED IN OFFICE
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
OCT 25, 2023 09:50 AM

IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

Civil Action File No.

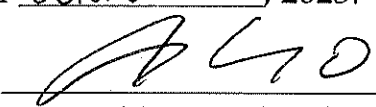
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

CONSENT ORDER EXTENDING THE DISCOVERY PERIOD

For good cause shown, and with the consent of all parties, IT IS HEREBY
ORDERED that the time within which discovery may be completed in the above-
styled case is hereby extended through and including **February 25, 2024**.

SO ORDERED this 25 day of October, 2023.


Honorable Angela O'Connor
State Court of Paulding County

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178
Attorney for Plaintiff
P.O. Box 1034
Villa Rica, GA 30180
(470) 284-2500
matthew@momtahanlaw.com

/s/ Jennie E. Rogers

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant
3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326-3240
(404) 365-4576
jrogers@mmatlaw.com

 **EFILED IN OFFICE**
CLERK OF STATE COURT
PAULDING COUNTY, GEORGIA
23-SV-000094
ANGELA O'CONOR
NOV 17, 2023 11:47 AM

**IN THE STATE COURT OF PAULDING COUNTY
STATE OF GEORGIA**

CAROLYN ITO,

Plaintiff,

v.

WALMART, INC. & SAM'S EAST, INC.
d/b/a SAM'S CLUB STORE NO. 4802,

Defendants.

_____ /

Civil Action File No.
23-SV-000094


Sheila Butler, Clerk
Paulding County, Georgia

AMENDED NOTICE TO TAKE DEPOSITION

YOU ARE HEREBY notified that beginning on the 23rd day of January, 2024, commencing at 11:00 a.m., via Zoom videoconferencing, the deposition will be taken of Carolyn Ito. Said deposition will be taken for purposes of discovery and all other purposes provided by law before an officer duly authorized to administer oaths. The deposition shall continue from day-to-day until completion. This deposition may also be videotaped by a videographer.

This the 17th day of November, 2023.

McLAIN & MERRITT, P.C.



Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500

Atlanta, GA 30326

(404) 365-4576

(404) 364-3138 (fax)

jrogers@mmatllegal.com

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing **AMENDED NOTICE OF TAKING DEPOSITION** has this day been filed and served upon opposing counsel via PeachCourt eFile.

This the 17th day of November, 2023.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'J. Rogers', written over a horizontal line.

Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendants
WALMART, INC.
SAM'S EAST, INC.

3445 Peachtree Road, N.E., Suite 500
Atlanta, GA 30326
(404) 365-4576
(404) 364-3138 (fax)
jrogers@mmatllegal.com

LEAVE OF ABSENCE

To: All Judges, Clerks, and Counsel of Record
Re: Leave of Absence
Date: January 3, 2024


Sheila Butler, Clerk
Paulding County, Georgia

COMES NOW, Matthew Momtahan, and respectfully notifies all judges before whom he has cases pendings, all affected clerks of court, and all opposing counsel that he will be on leave pursuant to Uniform Superior Court Rule 16, Uniform State Court Rule 16, Uniform Magistrate Court Rule 9, Uniform Probate Court Rule 6.9, and Uniform Municipal Court Rule 9, and Uniform Juvenile Court Rule 16.1.

1. The period of leave during which time Mr. Momtahan will be away from the practice of law is:

- January 9th through 10th, 2024;
- February 6th through 7th and February 19th through 23rd, 2024;
- March 12th through 13th and March 29th, 2024;
- April 1st through 5th and April 9th through 10th, 2024;
- May 14th through 17th and May 28th, 2024;
- June 20th through 26th, 2024;
- July 1st through 5th and July 9th through 10th, 2024;
- August 13th through 14th and August 19th through 23rd, 2024;
- September 3rd and 10th through 11th, 2024;
- October 8th through 9th and October 14th through 18th, 2024;
- November 12th through 13th and November 25th through 29th, 2024;
- December 10th through 11th, 13th, 16th through 20th, 23rd through 27th, and 30th through 31st, 2024; and
- January 2nd through 3rd, 2025

2. A list of all cases affected by Mr. Momtahan's Leave of Absence is attached as *Exhibit A*.

3. The purpose of the leave is: the applicant will be on vacation, observing state and federal holidays, in legal seminars and continuing education, serving on the Villa Rica, Georgia City Council, and other required functions.

4. All affected judges and opposing counsel shall have ten days from the date of this Notice to object, and if no objections are filed, the leave shall be granted.

Respectfully submitted January 3, 2024

THE MOMTAHAN LAW FIRM

/s/ Matthew Momtahan

Matthew Momtahan

Georgia Bar No. 858178

P.O. Box 1034

Villa Rica, Georgia 30180

EXHIBIT A

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Cheryl Rodriguez v. Casey Lee Bowman	Paulding Superior Court CAN: 20-CV-000872	Tonny Beavers	William Casey Monica Wingler <i>Counsel for Defendant</i> Martin Valbuena <i>Co-Counsel for Plaintiff</i>
Ann O'Neill v. Patricia Louise McLaughlin, et al.	Paulding Superior Court CAN: 19-CV-002745	Dean Bucci	Lani Skipper <i>Special Master</i> Nate Cochran <i>Counsel for Defendants</i>
Aldona Urbantas and Craig Stewart v. First IC Bank f/k/a First Intercontinental Bank & MAA 108, LLC	Paulding Superior Court CAN: 19-CV-001841	Tonny Beavers	Mason Rountree <i>Counsel for Defendant</i> <i>MAA 108, LLC</i> Cyrus Malone <i>Counsel for Defendant</i> <i>First IC Bank</i>
Ameris Bank v. Fred H. Stokes, II	Paulding Superior Court CAN: 21-CV-002244-P1	Tonny Beavers	Jeremy McCullough <i>Counsel for Plaintiff</i>
Julie Apel, Executor of the Estate of John Whitley v. James Campbell, Mandy Campbell & Paulette E. Owens	Paulding Superior Court CAN: 21-CV-000278-P2	Dean Bucci	Orion Webb <i>Counsel for Plaintiff</i> Mason Rountree <i>Counsel for Co-Defendant Owens</i>
Robert C. Morgan v. James Campbell, Mandy Campbell, and Paulette Owens	Paulding Superior Court CAN: 23-CV-001195	Dean Bucci	David Bikoff <i>Counsel for Plaintiff</i> Mason Rountree <i>Counsel for Co-Defendant Owens</i>

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Julie Apel, Administrator of the Estate of John Whitley v. Campbell's Customs, James Campbell, and Mandy Campbell	Spalding Superior Court CAN: 22SV-288	Josh Thacker	Orion Webb <i>Counsel for Plaintiff</i>
Samuel Tolbert v. Stephanie Timms, et al.	Carroll Superior Court CAN: SUCV2021000065	Erica Tisinger	Jason Bice <i>Counsel for Eryka Sellers</i>
Sharon Cook v. Ryan Stotz	Cobb State Court CAN: 21- A1151	Eric Brewton	Nicholas Warlick Robert Beckwith <i>Counsel for Plaintiff</i> Rakhi D. McNeill Heather Keller <i>Counsel for UM Carrier</i>
Lloyd Clark, Gloria Clark & Alpas Vineyard, LLC v. Gilmer County BOC, et. al.	Gilmer Superior Court CAN: SUCV2021000311	Richard T. Winegarden	David Clark <i>Counsel for Respondents/Defendants</i> John Capo <i>Counsel for Riverhill Baptist Church, et. al.</i>
Essels v. Word of Life Church	Douglas Superior Court CAN: 21-CV-01253	Deah B. Warren	Louis Levenson <i>Counsels for Plaintiffs</i>
Kimberly Conner v. Anthony Robson	Paulding Superior Court CAN: 22-CV-001075	T. David Lyles	Anthony Robson <i>Pro Se Defendant</i>
Teresa Lanford v. Valerie Rath	Paulding Superior Court CAN: 22-CV-002212	Tonny Beavers	Randy Williams Patrick Calvo <i>Counsel for Defendant</i>
Anneewakee Trails Homeowners Association, Inc. v. Kim Pinckney	Douglas Superior Court CAN: 21CV00595	Deah B. Warren	Frank Olson John Andrle <i>Counsel for Plaintiff</i>
Shawan Willbanks v. Sohaiti A. Romero	Paulding Superior Court CAN: 22-CV-002424	T. David Lyles	Rebecca McLaws <i>Counsel for Plaintiff</i>

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Rosa Marie Shelton & Evelyn Shelton v. Kevin Carr	Paulding Superior Court CAN: 22-CV-003099	Tonny Beavers	Mario Breedlove Lauren Boffill <i>Counsel for Defendant</i>
Hallmark Enterprise of GA, LLC v. Custom Metal Products, LLC, et. Al.	Polk Superior Court CAN: SUCV2022000809	Mark H. Murphy	Amanda Matthews Jamila G. Watts <i>Counsels for Defendant</i>
Nast Construction v. Shannon Kast and Hayley Kast	Carroll State Court CAN: STCV2023000293	Michael Hubbard	Tyler Paul Smith <i>Counsel for Plaintiff</i>
Jimi Shotunde v. Adefunke Josephine Coker	Gwinnett State Court CAN: 22-C-07412	Emily J. Brantley	Chris Denison <i>Counsel for Defendant</i>
Lara Jackson v. Rob Wallace	Carroll Superior Court CAN: SUCV2023000175	Dennis Blackmon	Richard H. Hill, Jr. <i>Counsel for Defendant</i>
Ameroon Khan v. Imran Khan	Paulding Superior Court CAN: 22-CV-002671	T. David Lyles	Leslie Simmons <i>Counsel for Plaintiff</i>
Brent Harris and Keystone Built, LLC v. Finnegan Services, LLC, Matthew Finnegan	Douglas State Court CAN: 23SV00023	Brian Fortner	Joe Fowler <i>Counsel for Plaintiff</i>
Sunstate Equipment Co., LLC v. Vision Earthwork Services, LLC	Paulding Superior Court CAN: 23-CV-002981	T. David Lyles	Douglas L. Brooks <i>Counsel for Plaintiff</i>
Terri Nash v. Keith N. Walton, Shirley Walton, and Jonathan Lindsey	Paulding Superior Court CAN: 23-CV-000125	T. David Lyles	Joe Fowler <i>Counsel for Plaintiff</i>
Amanda Royce v. Darren & Mary Peck	Haralson Superior Court CAN: SUCV2023000172	Andrew B. Roper	Wayne W. Gammon, III <i>Counsel for Defendants</i>
Travelers Property Casualty Co. of Am. v. Solis & M Construction, LLC	Paulding Superior Court CAN: 23-CV-001617	Tonny Beavers	B. Emory Potter <i>Counsel for Plaintiff</i>
Dillon Stoner v. Julia Reyes	Paulding Superior Court CAN: 23-CV-001872	T. David Lyles	Glen E. Stinson <i>Counsel for Plaintiff</i>
Mill Pond Homeowners Association, Inc. v. Zubeyde Yucel	Carroll State Court CAN: STCV2023000451	Michael Hubbard	Brian Gardiner Wes Dunlap <i>Counsel for Plaintiff</i>

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Romeo Verdeflor & Northelyn Verdeflor v. EAB Construction, LLC, et. al.	Clayton State Court CAN: 2023CV01997	Cornelia Ramsey	
Adam Lee & Susan Bauer-Lee v. Laquenton Q. Pollard	Douglas Superior Court CAN: 23-CV-01779	Deah B. Warren	
Cobb Subs, Inc. v. Sean Michael O’Kelley	Paulding State Court CAN: 23-SV-000087	Angela O’Conor	Travis J. Meyer <i>Counsel for Defendant</i>
Steven Scott & Brandi Scott v. Mark Costley & Brenda Costley	Paulding Superior Court CAN: 23-CV-003047	T. David Lyles	
Juan Cabrerizo v. Belke Financial, et. al.	Douglas Superior Court CAN: 23CV01060	Cynthia Adams	Joel Dodson <i>Special Master</i>
James E. Sosebee, Jr. v. Karina Jurado, et. al.	Carroll Superior Court CAN: SUCV2023000945	Dustin W. Hightower	Robert J. Harker <i>Special Master</i>
Frank R. Strickland v. John Doe as personal representative of the Estate of Richard Strickland, Sr., et. al.	Douglas Superior Court CAN: 23CV01142	Cynthia Adams	Joel Dodson <i>Special Master</i> Brian Hilton <i>Counsel for Defendant R. Strickland</i> Tania Tuttle Brett M. Ledermeier Ashley J. Freedman <i>Counsel for Defendants Bank OZK and Benji Peterson</i> Burke B. Johnson <i>Counsel for Defendants Helena Ammon, Alberto Suca, Dontey & Lanessa Knight</i>
Fairfield Plantation POA v. Michael Rikard, et. al.	Carroll Superior Court CAN: SUCV2023001137	Erica Tisinger	
Fairfield Plantation POA v. Brian Armstrong, et. al.	Carroll Superior Court CAN: SUCV2023001136	Dustin W. Hightower	
Fairfield Plantation POA v. Eleanor Scott	Carroll Superior Court CAN: SUCV2023001157	John T. Simpson	

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Tam T. Luu v. Tiara Enterprises, Inc., et. al.	Carroll Superior Court CAN: SUCV2023000987	Dustin W. Hightower	
Florene A. Cook v. Plantation of Lakeshore HOA, Inc., et. al.	Carroll Superior Court CAN: SUCV2023000999	Dustin W. Hightower	
Cameron Johnson v. Kenneth Edward Ayers	Haralson Magistrate Court CAN: 22-885CS	Jason Blackmon	Sean L. Hynes Megan E. Harsh <i>Counsel for Defendant</i>
Kailee Milner v. Kenneth Edward Ayers	Haralson Magistrate Court CAN: 22-884CS	Jason Blackmon	Sean L. Hynes Megan E. Harsh <i>Counsel for Defendant</i>
Mark Momtahan v. James Levi Kimmons	Paulding Superior Court CAN: 20-CV-002533	Dean Bucci	Kimberly Sheridan Michelle LeGault <i>Counsel for Defendant</i>
Julia Mentore v. Dominick C. Ivey, Jr. & Jessica Ivey	Rockdale State Court CAN: 2020-SV-1990	Cuthpert, Jr.	Douglas MacKimm <i>Counsel for Defendants</i>
Carolyn Ito v. Walmart Inc. & Sam's et. al.	Paulding State Court CAN: 23-SV-000094	Angela O'Connor	Jennie Rogers <i>Counsel for Defendants</i>
Stephanie Lynn Graham & Sonya Kay Dubose v. Tonya Terrell Gay	Clayton State Court CAN: 2022CV01013	Whyte- Gustave	Amanda S. Newquist <i>Counsel for Defendant</i>
Estate of Newton Cary Wood	Douglas Probate Court Estate No: 22E0219	Christina Peterson	
Estate of Harold Lambert Craig	Douglas County Probate Court Estate No.: 20E0299	Christina Peterson	
Estate of Danny Joe Carter	Paulding Probate Court Estate No.: 2022-204	Angela Woodall	
Estate of Howard E. Hopkins	Paulding Probate Court Estate No.: 2022-201	Angela Woodall	
Estate of Ronald Glenn Cato	Carroll Probate Court Estate No.: 2021-ES-325	Edith Haney	

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Estate of Virginia Ida Cox	Carroll Probate Court Estate No.: 2022-ES-512	Edith Haney	
Estate of Charlie David Wynn	Carroll Probate Court Estate No.: 2021-ES-564	Edith Haney	
Estate of Ronald Back	Carroll Probate Court Estate No.: 2022-ES-770	Edith Haney	
Estate of Timothy Kuhn	Douglas Probate Court Estate No.: 21-E-0367	Christina Peterson	
Estate of Timothy Kuhn	Douglas Probate Court Estate No.: 21-E-0402	Christina Peterson	
Estate of James L. Williams	Carroll Probate Court Estate No.: 2021-ES-385	Edith Haney	
Estate of Virgil Lewis Phillips	Carroll Probate Court Estate No.: 2003-PS-707	Edith Haney	
Estate of Macon Mercer	Carroll Probate Court Estate No.: 22-ES-499	Edith Haney	
Estate of Patricia Cole	Carroll Probate Court Estate No.: 2022-ES-684	Edith Haney	
Estate of Frances Louise Dukes	Carroll Probate Court Estate No.: 2022-ES-685	Edith Haney	
Estate of Patricia A. Woods	Carroll Probate Court Estate No.: 2023-ES-432	Edith Haney	
Estate of Thomas Paul Gattis	Carroll Probate Court Estate No.: 2023-ES-91	Edith Haney	
Estate of Jeffrey Klein	Carroll Probate Court Estate No.: 2023-ES-229	Edith Haney	Jesse Lee Vaughn <i>Counsel for Heir/Claimant</i>
Estate of Ervin Leonard Stansell	Carroll Probate Court Estate No.: 2023-ES-229	Edith Haney	

Case Style	Court & Case Number	Judge	Opposing/Other Counsel
Estate of Margie Kessler	Carroll Probate Court Estate No.: 23-GA-279	Edith Haney	Robert J. Harker <i>Court Appointed Attorney</i>
Estate of Diane Chastain	Douglas Probate Court Estate No.: 20-E-0202	Christina Peterson	
Estate of Shirley Ann Higgins	Douglas Probate Court Estate No.: 2021-E-0039	Christina Peterson	
Estate of Betty Marie Malcolm	Douglas Probate Court Estate No.: 23-E-0249	Christina Peterson	
Estate of Judy Blanche Jackson	Haralson Probate Court Estate No.: 2023-203	Edward Hulsey, Jr.	
Estate of Larry L. Harrell	Paulding Probate Court Estate No.: 2023-018	Angela Woodall	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Leave of Absence** upon all counsel of record or pro se parties in the matters listed on *Exhibit A* ☐ by hand delivery, ☐ by facsimile, ☒ by statutory electronic service, or ☒ by placing a copy of same in the United States Mail with sufficient postage affixed thereon to ensure delivery.

This January 3, 2024.

/s/ Matthew Momtahan

Matthew Momtahan
Georgia Bar No. 858178
P.O. Box 1034
Villa Rica, Georgia 30180